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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/210,213

12/11/1998

THOMAS F. LA PORTA

42-6-13-3-4

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06/01/2006

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EXAMINER

DUONG, DUC T

ART UNIT

PAPER NUMBER

2616

DATE MAILED: 06/01/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.		Applicant(s)	
	09/210,213		LA PORTA ET AL.	
	Examiner		Art Unit	
	Duc T. Duong		2663	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 March 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3 and 5-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3, 5-9 and 12-21 is/are rejected.
- 7) ☒ Claim(s) 10 and 11 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|----------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-3, 5, 6, 8, 9, and 12-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kumaki et al (U.S. Patent 6,473,411 B1).

Regarding to claims 1, 13, and 20, Kumaki discloses a discloses a packet router MSR (Fig. 35 col. 11 lines 14-32) having a routing table adapted to maintain a plurality of routing table entries for a distributed packet-based subnet said destination node address, wherein a first address (home address) for delivery of a plurality of packets is assigned to a wireless device in said subnet, said first address utilized when said wireless device is attached to said packet-based network through a base station included within a first domain including a set of identified nodes, and wherein a home agent utilizes a second address (current location address when the mobile terminal move to a different subnet) for said wireless device when said wireless device is attached to the packet-based network through a base station excluded from said first domain (col. 12 lines 40-55), said packet router comprising means for receiving a path setup message over a first interface (col. 18 lines 24-27), said path setup message including a field defining a destination address (IP address), means, responsive to receiving said destination address, for generating a routing table entry corresponding

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packets arriving at said packet router and having said destination address as a packet header destination address to said first interface (col. 18 lines 27-35), means for receiving at least one packet having said destination address to as said packet header destination address (col. 49 lines 26-28), means for performing a lookup of said routing table entry having said destination address and as said packet header destination address from said plurality of routing table entries (col. 49 lines 28-31), and means, responsive to said lookup, for forwarding said at least one packet over said first interface (col. 49 lines 32-36), wherein a handoff update path setup message from a second wireless base station to said router, for handoffs processes at a datalink later, is received if said wireless device is handed off from said router to said second wireless base station (col. 20 lines 48-62), said handoff update path setup message used to alter routing table entries for selected routers of said subnet (col. 21 lines 9-23), wherein said first address for said wireless device continues to be utilized if said second base station is within the same subnet (col. 22 lines 61-65).

Kumaki fails to teach for handoffs processed at a network layer.

However, it would have been obvious to a person of ordinary skill in the art, at the time of the invention, to arrange Kumaki's system for handoff processing at the network layer since such arrangement is a well known conventional technique as cited in Kumaki (col. 56 lines 34-37). The motivation to do so would have been to provide handoff processing involving IP switching.

Regarding to claims 2 and 14, Kumaki discloses destination device node 170 (mobile unit) is wireless device (Fig. 5 col. 10 lines 25-27).

Regarding to claims 3 and 15, Kumaki discloses first router MSR is incorporated within a first wireless base station (Fig. 5 col. 10 lines 8 29-34).

Regarding to claim 5, Kumaki discloses plurality of subnet routers include at least said first wireless base station 202 and said second wireless base station 203 (Fig. 12 col. 22 lines 66-67).

Regarding to claim 6, Kumaki discloses handoff update path setup is initiated from said wireless device (col. 22 lines 21-29).

Regarding to claim 8, Kumaki discloses the wireless device is a CDMA device (col. 10 lines 39-45).

Regarding to claims 9 and 16, Kumaki discloses the packet-based subnet is an Internet Protocol subnet (col. 10 lines 12-15).

Regarding to claim 12, Kumaki discloses maintaining said first routing table entry as a soft state in said first router, said first routing table entry overwritten with a default entry if a refresh path setup message is not received at said router within a specified period of time (col. 25 lines 66-67 and col. 26 lines 1-6).

Regarding to claim 17, Kumaki discloses the path setup message is a power up path setup message (col. 17 lines 5-15).

Regarding to claim 18, Kumaki discloses the path setup message is a handoff path setup message (col. 20 lines 48-53).

Regarding to claim 19, Kumaki discloses the path setup message is a refresh path setup message (col. 26 lines 21-30).

Regarding to claim 21, Kumaki discloses the subnet is a single hop wireless network (col. 46 lines 57-65).

3. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kumaki in view of Umeda et al (U.S. Patent 5,929,817).

Regarding to claim 7, Kumaki discloses all the limitations with respect to claim 3, except for the wireless device is able to simultaneously tune to, and receive packets from, greater than one base station.

However, Umeda discloses a mobile communication system, wherein a mobile station 3 capable of simultaneously receiving packets from more than one base stations (Fig. 2 col. 4 lines 55-63).

Thus, it would have been obvious to a person of ordinary skill in the art, at the time of the invention, to include the mobile communication system as taught by Umeda in Kumaki's system with the motivation for eliminating interruption of a speech flow or data dropping at a time of switching the base station in handover.

Response to Arguments

4. Applicant's arguments filed March 16, 2006 have been fully considered but they are not persuasive. In response to applicant's argument that to modify the teaching of Kumaki for handoff processing at the network layer would teach away from applicant's invention, the fact that applicant has recognized another advantage which would flow naturally from following the suggestion of the prior art cannot be the basis for patentability when the differences would otherwise be obvious. See *Ex parte Obiaya*, 227 USPQ 58, 60 (Bd. Pat. App. & Inter. 1985). In response to applicant's argument

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that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, the motivation to modify Kumaki for handoff process at the network later would have been obvious to a person of ordinary skill in the art since modification is well-known as conventional technique for handoff in the art.

Allowable Subject Matter

5. Claims 10 and 11 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

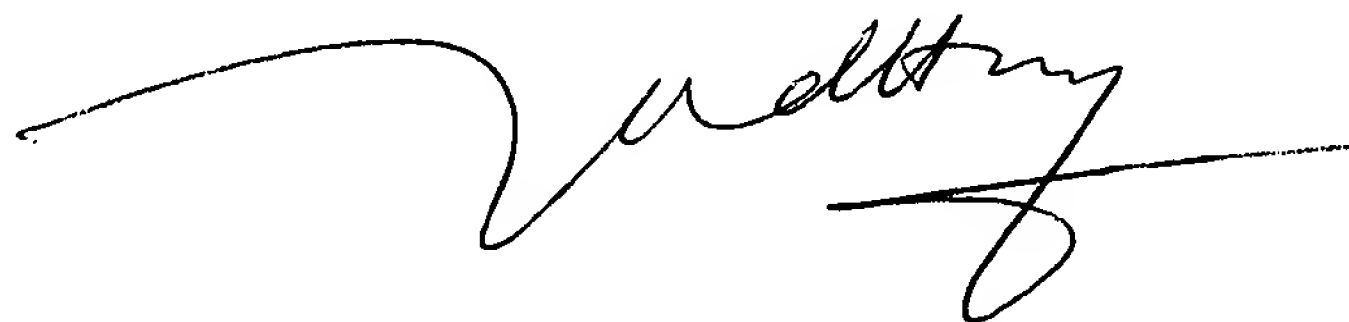
the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Duc T. Duong whose telephone number is 571-272-3122. The examiner can normally be reached on M-F (9:00 AM-6:00 PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Huy D. Vu can be reached on 571-272-3155. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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